

AN OVERVIEW OF CHECKLISTS FOR UNCONTESTED PROCEEDINGS

At various times, lawyers who practice in Probate Court Number Two have suggested it would be helpful to have checklists for use in preparing uncontested applications for probate of wills (whether for administration or as muniments of title), for determinations of heirship in intestate estates, and for independent administrations by agreement. Court staff have likewise concluded that checklists might help lawyers pursuing uncontested “basic” proceedings assure that pleadings and other documents for the proceedings contain essential and required information and that statutorily mandated procedures are otherwise followed. The objective of the checklists appearing here is to help lawyers follow the required steps from the start and avoid repleading, reposting, and rescheduling of prove-ups that occur when the necessary contents do not appear in pleadings and required actions are missed.

Please note that the checklists are not the “be-all-and-end-all” for the uncontested proceedings they address. The checklists are mere starting points. There may be special aspects to a given case that bear disclosure in pleadings and prove-up that are not in the checklists. Lawyers and their staff members are encouraged to be mindful in their preparation and adjust any forms in their systems to take into account any such special dimensions.

It is possible that more than one checklist may be relevant in a given case. For instance, one may follow the usual steps to get a will admitted to probate, but need to take additional steps for, say, getting an independent administration approved as well. As another example, one may wish to have both a determination of heirship in connection with an intestate estate and appointment of an independent administrator. In both of these examples, two checklists will be appropriate for review. For one reason or another that affects timing of case activities, two separate applications may be submitted, but it may also be the case that the two activities may be pursued simultaneously in one application and prove-up. In so many words, simply because there are two checklists presented here does not mean that two separate applications must be filed and separate prove-ups pursued.

Probate Court Number Two has endeavored to have the checklists presented here reviewed by lawyers who frequently appear in the Court and to obtain their suggestions for improvement. It is hoped that, through the collaborative efforts, the checklists will be truly helpful and facilitate smooth progression in proceedings.